

AMENDED IN SENATE JANUARY 6, 2014

AMENDED IN SENATE APRIL 11, 2013

SENATE BILL

No. 693

Introduced by Senator Correa

February 22, 2013

An act to add and repeal Sections ~~17052.5 and 17052.7~~ 17052.5, 17052.7, and 17158 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 693, as amended, Correa. Personal income tax: credits: *exclusions*: school expenses.

The Personal Income Tax Law *imposes a tax based upon gross income, and defines gross income as all income from whatever source derived, unless specifically excluded. The Personal Income Tax Law* allows various credits against the tax imposed by that law.

This bill would, for taxable years beginning on or after January 1, 2014, and before January 1, 2019, allow *either an exclusion from gross income or a credit against that tax to low-income and middle-income qualified* parents and guardians, *as defined*, for education-related expenses, as defined, ~~not to exceed \$500, and a credit against that tax to qualified taxpayers, in specified amounts.~~ *This bill would also allow a credit against that tax for qualified teachers, as defined, for instructional materials and classroom supplies, not to exceed \$250.*

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. The Legislature finds and declares all of the*
2 *following:*

3 *(a) While ensuring the quality education of all of California's*
4 *school children is a shared responsibility of the general public, it*
5 *is foremost the duty of individual parents and teachers.*

6 *(b) State tax relief for education can help empower and engage*
7 *low- and middle-income families in personally caring for their*
8 *own school children's learning needs, which they know most*
9 *intimately.*

10 *(c) State tax relief for education expenses, leveraged with*
11 *current federal deductions, can further support and strengthen*
12 *new teachers for successful careers in their noble profession.*

13 ~~SECTION 1.~~

14 *SEC. 2. Section 17052.5 is added to the Revenue and Taxation*
15 *Code, to read:*

16 17052.5. (a) For each taxable year beginning on or after
17 January 1, 2014, and before January 1, 2019, there shall be allowed
18 as a credit against the "net tax," as defined in Section 17039, the
19 qualified amount that was paid or incurred for qualified
20 education-related expenses for one or more dependent children by
21 ~~a low-income or middle-income~~ *qualified* parent or guardian during
22 the taxable year.

23 (b) For purposes of this section:

24 (1) "Dependent children" means children who attend
25 kindergarten or any of grades 1 to 12, inclusive, in California at a
26 public, charter, or private school that has a current private school
27 affidavit on file with the State Department of Education in the
28 taxable year and who meet the requirements of Section
29 ~~152(c)(1)(B), (D), 152(c)(1)(D)~~ and (E) of the Internal Revenue
30 Code.

31 ~~(2) "Qualified amount" means the following:~~

32 ~~(A) If the qualified education-related expenses are two hundred~~
33 ~~fifty dollars (\$250) or less, the amount paid or incurred for those~~
34 ~~expenses.~~

35 ~~(B) If the qualified education-related expenses are more than~~
36 ~~two hundred fifty dollars (\$250) and less than one thousand two~~
37 ~~hundred fifty dollars (\$1,250), two hundred fifty dollars (\$250)~~

1 plus 25 percent of the difference between the amount paid or
2 incurred for those expenses and two hundred fifty dollars (\$250):

3 (C) If the qualified education-related expenses are more than
4 one thousand two hundred fifty dollars (\$1,250), five hundred
5 dollars (\$500):

6 (3) (A) “Qualified education-related expenses” means the costs
7 of textbooks, school supplies, including, but not limited to, pens,
8 paper, pencils, notebooks, calculators, and rulers, school uniforms,
9 computers, computer hardware, and educational computer software
10 used to learn academic subjects, tuition, tutoring,
11 psychoeducational diagnostic evaluations to assess the cognitive
12 and academic abilities of pupils, special education services for
13 pupils who have an individualized education program or its
14 equivalent, academic after-school programs, out-of-school
15 enrichment programs, public transportation, third-party
16 transportation, and the rental or purchase of educational equipment
17 required for classes held during the regular school year.

18 (2) “Household income” has the same meaning as “adjusted
19 gross income,” as defined in Section 17072.

20 (3) “Qualified amount” means the amount paid for incurred
21 for qualified education expenses.

22 (4) (A) “Qualified education-related expenses” means the
23 kindergarten or any of grades 1 to 12, inclusive, costs of: textbooks
24 and school supplies, including, but not limited to, pens, paper,
25 pencils, notebooks, calculators, and rulers; the rental or purchase
26 of educational equipment required for classes during the regular
27 school day; school uniforms that are not part of a cocurricular
28 activity; computers, computer hardware, and educational computer
29 software used to learn academic subjects; tuition for a private
30 school with kindergarten or any of grades 1 to 12, inclusive, for
31 college courses at public institutions or independent nonprofit
32 colleges, or for summer school courses that satisfy high school
33 graduation requirements; psychoeducational diagnostic
34 evaluations to assess the cognitive and academic abilities of pupils;
35 special education and related services for pupils who have an
36 individualized education program; out-of-school enrichment
37 programs, tutoring, and summer programs that are academic in
38 nature; and public transportation or third-party transportation
39 expenses for traveling directly to and from school.

(B) “Qualified education-related expenses” shall not include any expenses for the items described in subparagraph (A) that are used in a trade or business.

~~(4) “Low-income or middle-income~~

(5) “*Qualified* parent or guardian” means a parent or legal guardian of a full-time pupil who is under 21 years of age at the close of the school year who meets both of the following requirements:

(A) Both the pupil and the parent or guardian reside in California when the qualified education-related expenses ~~were~~ *are* paid or incurred.

(B) The household income does not exceed ~~300~~ 200 percent of the federal Income Eligibility Guidelines published by the Food and Nutrition Service of the United States Department of Agriculture for use in determining eligibility for reduced price meals.

~~(5) “Tuition” means tuition for a private school with kindergarten or any grades 1 to 12, inclusive, or for college courses or summer school courses that satisfy high school graduation requirements.~~

~~(e) (1) The credit amount shall be limited to five hundred dollars (\$500) per household.~~

~~(2) If more than one parent or guardian qualifies for this credit, the following applies:~~

~~(A) The credit shall be allowed to the parent or guardian having custody for the greater portion of the calendar year.~~

~~(B) If the child resides with more than one parent or guardian for the same amount of time during the taxable year, the parent or guardian with the highest adjusted gross income shall be allowed the credit.~~

(c) The total amount of credit available pursuant to this section per qualified parent or guardian shall not exceed five hundred dollars (\$500) per taxable year, except as provided in paragraphs (1) and (2).

(1) If the qualified parent or guardian is a married individual, a credit pursuant to this section shall be allowed only if the qualified parent or guardian and the qualified parent or guardian’s spouse file a joint return for the taxable year in which the credit is claimed.

1 (2) *If qualified parents or guardians file individual returns, the*
2 *total combined credit amount allowed pursuant to this section on*
3 *both returns shall not exceed five hundred dollars (\$500).*

4 (d) In the case where the credit allowed by this section exceeds
5 the “net tax,” the excess may be carried over to reduce the “net
6 tax” in the following year, and succeeding four years if necessary,
7 until the credit is exhausted.

8 (e) (1) The Franchise Tax Board may prescribe rules, guidelines,
9 or procedures necessary or appropriate to carry out the purposes
10 of this section.

11 (2) Chapter 3.5 (commencing with Section 11340) of Part 1 of
12 Division 3 of Title 2 of the Government Code shall not apply to
13 any standard, criterion, procedure, determination, rule, notice, or
14 guideline established or issued by the Franchise Tax Board
15 pursuant to this section.

16 (f) (1) *The credit allowed by this section shall be in lieu of any*
17 *exclusion allowed by Section 17158.*

18 (2) *The credit allowed by this section shall not be allowed by*
19 *for any expense incurred by a qualified teacher for instructional*
20 *material and classroom supplies, as defined by Section 17052.7.*

21 ~~(f)~~

22 (g) This section shall remain in effect only until December 1,
23 2019, and as of that date is repealed, unless a later enacted statute,
24 that is enacted before January 1, 2019, deletes or extends that date.

25 ~~SEC. 2.~~

26 SEC. 3. Section 17052.7 is added to the Revenue and Taxation
27 Code, to read:

28 17052.7. (a) (1) For each taxable year beginning on or after
29 January 1, 2014, and before January 1, 2019, there shall be allowed
30 as a credit against the “net tax,” as defined in Section 17039, an
31 amount equal to the amount paid or incurred by a qualified taxpayer
32 teacher during the taxable year for instructional materials and
33 classroom supplies, not to exceed two hundred fifty dollars (\$250),
34 except as provided in paragraph (2).

35 (2) *Subject to the maximum credit amount allowed per qualified*
36 *teacher, for qualified teachers who are married and filing a joint*
37 *return there shall be allowed a credit not to exceed five hundred*
38 *dollars (\$500).*

39 (b) For purposes of this section:

(1) “Instructional materials and classroom supplies” means any unreimbursed expenses, otherwise deductible as a trade or business expense, for books, supplies, computer equipment, including related software and services and other equipment, and supplementary materials used in the classroom, *including, but not limited to, supplies for courses in health and physical education.*

~~(2) “Qualified taxpayer” means a person who works at least 900 hours in the school year as a teacher, instructor, counselor, principal, or aide in a school for kindergarten or any grades 1 to 12, inclusive.~~

~~(e) A qualified taxpayer shall be allowed this credit only for the first three years of employment as a teacher, instructor, counselor, principal, or aide in a school for kindergarten or any grades 1 to 12, inclusive.~~

(2) “*Qualified teacher*” means a teacher who meets all of the following requirements:

(A) *The individual has worked at least 900 hours in the school year as a teacher, in a school offering instruction in kindergarten or any of grades 1 to 12, inclusive, in California at a public, charter, or private school that has a current private school affidavit on file with the State Department of Education in the taxable year.*

(B) *The teacher is primarily engaged in the duty of imparting knowledge to pupils by teaching, instructing, or lecturing.*

(C) *The teacher customarily and regularly exercises discretion and independent judgment in performing the duties of a teacher.*

(D) *The teacher is not employed as a tutor, teaching assistant, instructional aide, student teacher, day care provider, vocational instructor, or similar position.*

(c) *The credit allowed pursuant to this section shall be available as follows:*

(1) *For taxable years beginning on or after January 1, 2014, and before January 1, 2015, the credit shall be available only to qualified teachers with no more than one year of employment as a qualified teacher.*

(2) *For taxable years beginning on or after January 1, 2015, and before January 1, 2016, the credit shall be available only to qualified teachers with no more than two consecutive years of employment as a qualified teacher.*

(3) *For taxable years beginning on or after January 1, 2016, and before January 1, 2019, the credit shall be available only to*

1 *qualified teachers with no more than three consecutive years of*
2 *employment as a qualified teacher.*

3 (d) In the case where the credit allowed by this section exceeds
4 the “net tax,” the excess may be carried over to reduce the “net
5 tax” in the following year, and succeeding four years if necessary,
6 until the credit is exhausted.

7 (e) (1) The Franchise Tax Board may prescribe rules, guidelines,
8 or procedures necessary or appropriate to carry out the purposes
9 of this section.

10 (2) Chapter 3.5 (commencing with Section 11340) of Part 1 of
11 Division 3 of Title 2 of the Government Code shall not apply to
12 any standard, criterion, procedure, determination, rule, notice, or
13 guideline established or issued by the Franchise Tax Board
14 pursuant to this section.

15 (f) *The credit allowed by Section 17052.6 shall not be allowed*
16 *for any expense incurred by a qualified teacher for instructional*
17 *material and classroom supplies, as defined by paragraph (1) of*
18 *subdivision (b).*

19 ~~(f)~~

20 (g) This section shall remain in effect only until December 1,
21 2019, and as of that date is repealed, unless a later enacted statute,
22 that is enacted before January 1, 2019, deletes or extends that date.

23 SEC. 4. *Section 17158 is added to the Revenue and Taxation*
24 *Code, to read:*

25 17158. (a) *For each taxable year beginning on or after*
26 *January 1, 2014, and before January 1, 2019, gross income shall*
27 *not include the qualified amount paid or incurred for qualified*
28 *education-related expenses for one or more dependent children*
29 *by a qualified parent or guardian during the taxable year.*

30 (b) *For purposes of this section:*

31 (1) *“Dependent children” means children who attend*
32 *kindergarten or any of grades 1 to 12, inclusive, in California at*
33 *a public, charter, or private school that has a current private*
34 *school affidavit on file with the State Department of Education in*
35 *the taxable year and who meet the requirements of Section*
36 *152(c)(1)(D) and (E) of the Internal Revenue Code.*

37 (2) *“Qualified amount” means the amount paid for incurred*
38 *for qualified education expenses.*

39 (3) (A) *“Qualified education-related expenses” means the*
40 *kindergarten or any of grades 1 to 12, inclusive, costs of: textbooks*

1 *and school supplies, including, but not limited to, pens, paper,*
2 *pencils, notebooks, calculators, and rulers; the rental or purchase*
3 *of educational equipment required for classes during the regular*
4 *school day; school uniforms that are not part of a cocurricular*
5 *activity; computers, computer hardware, and educational computer*
6 *software used to learn academic subjects; tuition for a private*
7 *school with kindergarten or any of grades 1 to 12, inclusive, for*
8 *college courses at public institutions or independent nonprofit*
9 *colleges, or for summer school courses that satisfy high school*
10 *graduation requirements; psychoeducational diagnostic*
11 *evaluations to assess the cognitive and academic abilities of pupils;*
12 *special education and related services for pupils who have an*
13 *individualized education program; out-of-school enrichment*
14 *programs, tutoring, and summer programs that are academic in*
15 *nature; and public transportation or third-party transportation*
16 *expenses for traveling directly to and from school.*

17 (B) *“Qualified education-related expenses” shall not include*
18 *any expenses for the items described in subparagraph (A) that are*
19 *used in a trade or business.*

20 (4) *“Qualified parent or guardian” means a parent or legal*
21 *guardian of a full-time pupil who is under 21 years of age at the*
22 *close of the school year who meets both of the following*
23 *requirements:*

24 (A) *Both the pupil and the parent or guardian reside in*
25 *California when the qualified education-related expenses are paid*
26 *or incurred.*

27 (B) *The household income does not exceed 200 percent of the*
28 *federal Income Eligibility Guidelines published by the Food and*
29 *Nutrition Service of the United States Department of Agriculture*
30 *for use in determining eligibility for reduced price meals.*

31 (c) *The total qualified amount excluded from gross income shall*
32 *not exceed two thousand five hundred dollars (\$2,500) per taxable*
33 *year per qualified parent or guardian, except as provided in*
34 *paragraphs (1) and (2).*

35 (1) *If the qualified parent or guardian is a married individual,*
36 *an exclusion pursuant to this section shall be allowed only if the*
37 *qualified parent or guardian and the qualified parent or guardian’s*
38 *spouse file a joint return for the taxable year in which the exclusion*
39 *is claimed.*

1 (2) *If qualified parents or guardians file individual returns, the*
2 *total combined exclusion amount allowed pursuant to this section*
3 *on both returns shall not exceed two thousand five hundred dollars*
4 *(\$2,500).*

5 (d) (1) *The Franchise Tax Board may prescribe rules,*
6 *guidelines, or procedures necessary or appropriate to carry out*
7 *the purposes of this section.*

8 (2) *Chapter 3.5 (commencing with Section 11340) of Part 1 of*
9 *Division 3 of Title 2 of the Government Code shall not apply to*
10 *any standard, criterion, procedure, determination, rule, notice, or*
11 *guideline established or issued by the Franchise Tax Board*
12 *pursuant to this section.*

13 (e) *The exclusion allowed by this section shall be in lieu of any*
14 *credit allowed by Section 17052.5.*

15 (f) *This section shall remain in effect only until December 1,*
16 *2019, and as of that date is repealed, unless a later enacted statute,*
17 *that is enacted before January 1, 2019, deletes or extends that*
18 *date.*

19 ~~SEC. 3.~~

20 SEC. 5. *This act provides for a tax levy within the meaning of*
21 *Article IV of the Constitution and shall go into immediate effect.*